CHAPTER OUTLINE

The criminal justice system in Wales

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KEY ISSUES

After studying this chapter you should be able to:

- identify the origins of the 'single' England and Wales criminal justice system;
- appreciate the impact that democratic devolution has made to criminal justice in Wales;
- critically evaluate the extent to which policy differences now exist between Wales and England, despite the continuation of the England and Wales jurisdiction;
- identify the principles that helped to shape the Welsh Government's social policy agenda during its formative years;
- evaluate some of the major developments within youth justice practice in Wales, including those that have given rise to the concept of 'dragonisation'.

Introduction

In this chapter we explore the Welsh criminal justice system in Wales. Within criminological debates in Western Europe, Wales is one of the least visible or talked about countries. Arguably, though, it has much to offer in terms of fresh insights into important criminological and criminal justice issues. Unlike Northern Ireland and Scotland, Wales is the only devolved UK nation without its own separate criminal justice system. Since the 16th century it has occupied a shared jurisdiction with England. Since the beginning of this century, however, the calls for an independent justice system for Wales have been growing. The loudest of these came in 2019 after the Commission on Justice in Wales (2019: 10) recommended that a separate Welsh system should be established to help overcome the 'unduly complex' nature of the current system in Wales.

In the exact same way as criminologists argue that we need to take environmental crime more seriously (Chapter 12), or that we need to think more closely about the relationship between crime and the media (Chapter 6), this chapter seeks to encourage students to think about Wales as a standalone unit of study. Consider this: how many times have you heard a course lecturer or tutor refer to the 'England and Wales' system? Take a look at recent news reports covering crime and criminal justice issues and see how many references you can find to crime in 'England and Wales' or to prisoner numbers in 'England and Wales'? It is often taken for granted by criminologists that these two countries are the same, but to what extent is this true? Our aim in this chapter is to think more deeply about this question and to confront the strange reality that differences now exist between two countries that have been part of the same justice system for the best part of 500 years.

Although our main focus will be on the Welsh criminal justice system today, if we are to fully understand the unique characteristics and issues associated with the current system in Wales, we need to explain the historical background and the dynamic contemporary context of devolution. We will therefore begin with a brief historical overview of how Wales came to share the same legal jurisdiction as England, the more recent development of Wales' own government and parliament since 1999, and the changes this has brought to Welsh criminal justice. We will then give a brief introduction to the adult criminal justice system in Wales and chart the emergence of what is an unprecedented and highly unusual set of arrangements in Wales. From here, we go on to provide an account of the development of a distinctive Welsh policy agenda, particularly in the field of youth justice. This is often referred to as 'dragonisation' (Edwards and Hughes, 2009; Haines, 2010; Evans et al., 2021); the dragon being the national symbol of Wales. However, as we will see, this process of dragonisation has not reached all parts of the criminal justice system in Wales. We conclude by assessing the extent to which criminal justice can be described as distinctive from England and consider some of the challenges that lie ahead.

Wales' position within the single jurisdiction of 'England and Wales'

If you were to approach someone who is reasonably well-informed about criminological matters and ask them to tell you one thing that is different about criminal justice in Wales in comparison with England, you would probably struggle to get a response. The reason for this is that the majority of people consider Wales and England to be the same when thinking about crime and criminal justice. This understanding can largely be explained by the fact that England and Wales are joined together in a unitary legal jurisdiction where they share identical laws and criminal justice institutions. This situation is not helped by the fact that criminological analysis of this system often tends to favour England. This is partly because the majority of the population live in England, and partly because it is where the UK Government and the ministerial departments responsible for criminal justice are located.

The dominance of England over Wales was established almost 500 years ago. The often-cited entry for Wales in the 1911 edition of *Encyclopaedia Britannica*, 'For Wales, see England', implies that the country to the west of England is merely an adjunct or an afterthought. England and its institutions have spoken on behalf of Wales in debates over many years, both within the UK and internationally (Thomas, 1991), and we see this attitude reflected in the way that many criminologists speak of events that have taken place in Wales. Ranging from infamous prison riots to high profile policing incidents, key criminological events that have occurred in Wales have often been lost

within accounts and descriptions focused upon England (Jones, 2017). While this clearly reflects the fact that Wales finds itself in a shared system with a much bigger and more powerful partner, as opposed to any deliberate attempt by criminologists to overlook Wales, the effect is that to even think about Wales as a unit of analysis worthy of serious consideration can feel rather unnatural and unusual.

Despite the establishment of a government and parliament in Wales in 1999, the focus on England in policy analysis has largely continued throughout the 21st century. So why does Wales continue to be overlooked within criminological debates? To fully understand this, we must understand how the England and Wales system came into existence.

The development of the English-Welsh jurisdiction

The 36-year rule of King Henry VIII is more likely to conjure up memories of childhood history lessons and infamous tales of his six wives than the establishment of the single jurisdiction of 'England and Wales'. But it was through the passing of two separate 'Acts of Union' by this monarch that Wales was effectively incorporated into the English state. The first statute in 1535/6 (the Act for Law and Justice to be Ministered in Wales in Like Form as it is in the Realm) was followed in 1542/3 by the Act for Certain Ordinances in the King's Dominion and Principality of Wales. These statutes were implemented with two aims: to unite the two countries politically; and to sweep away indigenous (native) Welsh laws and any other 'customs and usages' that had once flourished under Hywel Dda (Wales' own legal system) and Wales' own penal code (Rawlings, 2003: 460). It could be argued that the aim of establishing legal, and some would claim cultural (Thomas, 1991), uniformity across England and Wales reflected a political union based on achieving assimilation rather than the voluntary union of two countries. The Welsh story is in marked contrast to the Act of Union between England and Scotland in the 18th century, where the latter managed to retain its own distinct legal system (Nairn, 1981/2015).

While we might justly consider the Welsh Acts of Union as having vandalised and replaced indigenous legal practices, the establishment of the Courts of Great Session (which did not cover Monmouthshire) after 1542 did make space for a distinct Welsh 'legal identity' (Watkin, 2012: 145) within the jurisdiction of 'England and Wales'. Even though the English language had become the official language of the law in Wales, the Welsh language continued to be widely used within the Great Sessions (see 'Controversy and debate' for more on the Welsh language). The Acts of Union also gave Wales a measure of political identity as the shires (counties) of the country were entitled to send representatives to the Westminster parliament. In 1830, however, the Courts of Great Session were abolished and Wales was brought into complete legal and judicial conformity with England. It was from this point onwards that the 'unitary' system of England and Wales was created. However, subtle changes brought on by democratic devolution in Wales now form part of a story about Wales' changing role in the England and Wales system.

! CONTROVERSY AND DEBATE

Cymraeg (the Welsh Language): Protest and the Campaign for Legal Equality

The Welsh language is one of the oldest living languages in Europe and, until the early 20th century, was the mother tongue and majority language of the country. The decline in the use of Welsh began with the 1536 Act of Union banished it from the law courts and public life, with English seen as the language of social mobility and advancement. In 1847, three non-Welsh speaking commissioners published a Report recording children's weak grasp of the English language and describing the Welsh language as a barrier to moral progress. The Report was dubbed 'Brad Y Llyfrau Gleision' ('The Treason of the Blue Books'; 'blue' referring to the colour in which the Report has been published: https://www.library.wales/discover/digital-gallery/printed-material/the-blue-books-of-1847). Despite the widespread upset the Report caused, it reinforced the idea that English was the superior language and Welsh was irrelevant in the modern world. It is against this background that the already established practice of the 'Welsh Not' took a stronger hold in Welsh schools. As English was to be the language of formal education, a child heard speaking Welsh in school would be given a 'Welsh Not', which was a piece of wood hung around the neck and passed around by the children to those speaking Welsh in the playground. At the end of the day the child with the Welsh Not was beaten with a cane by the teacher.

Despite this overt discrimination against the Welsh language, there was significant cultural resistance in the chapels and the *eisteddodau* (local and national festivals that celebrated Welsh music, dance and literature—see Edwards, 2016). Nevertheless, the 1911 census recorded that less than 50 per cent of the Welsh population spoke the language, with the 2011 census seeing the number fall to 19 per cent (Office for National Statistics, 2012). However, it is worth noting that Annual Population Surveys conducted by the Office for National Statistics in the intervening period give a higher estimate, which may in part be accounted for by the rise in Welsh medium education. According to the Annual Population Survey released in 2020 and reflecting data from mid-2019, Cardiff has 89,300 Welsh speakers—25 per cent of the population of the city (Office for National Statistics, 2021). If such estimates are reliable, the Welsh Government target of a million Welsh-speakers by 2050 (Welsh Government, 2017) may be attainable.

The reasons for the possible revival in the fortunes of the Welsh language may be of interest to some readers, but why does the language a people speak matter in a chapter about the criminal justice system in Wales? Surely, it is just a matter of choice? This brings us to a much wider debate about the legal status of languages, cultural rights, and citizenship. After the Acts of Union in the 16th century, Welsh was a stateless language (which is to say that there was no state to protect and support it). The point is that Welsh speakers were not able to use their language of choice in many areas of their lives: in school, in work, in courts, and in dealings with local and central government. The campaign for equal rights for the Welsh language began in earnest with the formation in 1963 of *Cymdeithas Yr Iaith Cymraeg* (the Welsh Language Society), a campaigning group which used tactics of non-violent direct action and civil disobedience. Many of its members were convicted and imprisoned for such 'criminal' acts as spraying paint on English-only signs, refusing to complete English-only official forms, and damaging television masts in the campaign for a Welsh language television challenge. Were these crimes or were the assertion of cultural human rights?

So what has been the response to such campaigns? The Welsh Language Act 1967 permitted the use of Welsh in legal proceedings and authorised the production of official forms in Welsh. A Welsh language channel was established (*Sianel Pedwar Cymru*) in 1983. The Welsh Language Act 1993 strengthened the position of the language, initiating Welsh Language Schemes in public bodies. However, it was not until the passage of the Welsh Language (Wales) Measure 2011 that the indigenous language of Wales was given parity of legal status in the public life of Wales Notwithstanding these statutory measures, the future of Welsh-speaking communities in the traditional heartlands of the country is far from being assured.

Perceptions that the Welsh language, and indeed Welsh national, interests were marginal within the United Kingdom were heightened in the 1960s when Capel Celyn, a Welsh-speaking village, was flooded in order to build a reservoir that would provide water for Liverpool. Despite every Welsh MP voting against the proposal, Tryweryn Reservoir was built because they were outvoted by their English counterparts. For many, Tryweryn became a nationalist symbol of the political impotence of Wales.

The story of devolution in Wales began three decades before the birth of its own democratic institutions in 1999. In the early 1960s, the process of administrative devolution began with the establishment of a Welsh Office (in Cardiff and London) overseen by a Secretary of State for Wales. By the early 1970s there were plans to establish a National Assembly in Wales, with a view to democratising many of the powers vested in the Welsh Office, but a referendum held in 1979 defeated this proposal overwhelmingly. Nevertheless, a broad-based and cross-party national movement regrouped and continued to argue the democratic case for devolution. By 1996 the Welsh Office in Westminster, a UK Ministerial department, was responsible for a wide range of government functions including education, health, housing, local government, social services, and the Welsh language. When another opportunity to vote in favour of establishing a National Assembly was put to the Welsh electorate in September 1997 by Tony Blair's New Labour Government, they advanced the argument that electing 60 Assembly members would be a more democratic method of delegating power to Wales than the existing administrative arrangement. Although the margin of victory was a mere 6,721 votes (50.3 per cent) on a turnout of just over half of those eligible to vote, the referendum outcome in 1997 was enough to endorse the proposals and secure devolution to Wales.

Despite a lukewarm show of support for its existence in 1997, the National Assembly for Wales was 'formally empowered' in June 1999 (Rawlings, 2003: 1). As set out within the UK Labour government's *A Voice for Wales* White Paper in 1997 (Wales Office, 1997), the National Assembly was given executive responsibility for 20 separate areas of

policy. These included responsibilities over areas of social policy such as housing, education, social services, community safety, and health. Since then, the National Assembly has become more established and has developed into a more familiar parliamentary structure. Responsibilities are now divided between the Executive (Government) and Non-executive (Parliament) functions, with the former now referred to as the Welsh Government (following a period of it being described as the Welsh Assembly Government) and the 'parliamentary' function renamed as the Welsh Parliament (*Senedd Cymru* in the Welsh language—*Senedd* meaning 'Parliament' and *Cymru* meaning 'Wales') in May 2020.

Devolution is best thought of as a process (one that is summarised in Figure 1) rather than an event, and it is worth noting that the democratic institutions in Wales have acquired greater powers since the formative years of the Assembly. The Welsh Parliament, as it is now known, gathered more powers following the passage of the Government of Wales Act 2006 as well as another referendum in 2011 in which the people of Wales voted in favour (63 per cent) of granting the Senedd/Parliament primary law-making powers (Wyn Jones and Scully, 2012). In more recent years, two Wales Acts (2014 and 2017) have granted further powers to the Welsh parliament over a range of areas including taxation, elections, and the size of the Welsh parliament itself. (Those interested in such constitutional issues should explore the work of the Wales Governance Centre at Cardiff University: http://sites.cardiff.ac.uk/wgc/.) However, despite the acquisition of these greater powers, responsibility for policing and criminal justice in Wales is still a matter for the UK Parliament in Westminster. The England and Wales system remains formally intact, but the supposed 'unitary' character of the shared jurisdiction is showing signs of creaking under the pressure and weight of widening Welsh divergence.

The trajectory of criminal justice powers in Wales

Throughout the different stages of Welsh devolution, which have been informed by various reports and commissions (e.g., the Richard Commission, 2004, and the All Wales Convention, 2009), formal responsibility for both adult and youth justice in Wales has remained unchanged. In other words, the single jurisdiction of England and Wales has remained intact, at least in name. Although two separate Wales Acts (2014 and 2017) have transferred further powers to the Welsh Parliament, the UK government remains responsible for the key criminal justice areas of policing, the courts, sentencing policy, youth justice, prisons, and the probation service. In recent years, however, increasing attention has been directed towards the future of criminal and youth justice powers in Wales. In 2014 the second part of the Silk Commission's inquiry into the future of devolution in Wales concluded that aspects of policing and justice should be transferred to the National Assembly. In its evidence to the Silk Commission's inquiry, the Welsh Government (2013) called for the immediate devolution of policing and youth justice powers as well as the eventual transfer of functions relating to the prison and probation service in Wales. Within its own evidence submission, however, the UK government reiterated its commitment to ensuring that Wales remained part of the single England and Wales justice system (Wales Office, 2013).

Although much of the focus within recent debates and discussions has been placed upon the potential to devolve adult and youth justice powers to Wales, the Silk Commission's report—and indeed many of those who provided evidence submissions (e.g. Wales Office, 2013; Welsh Government, 2013)—arguably failed to properly take into account the effect that devolution had already had on adult

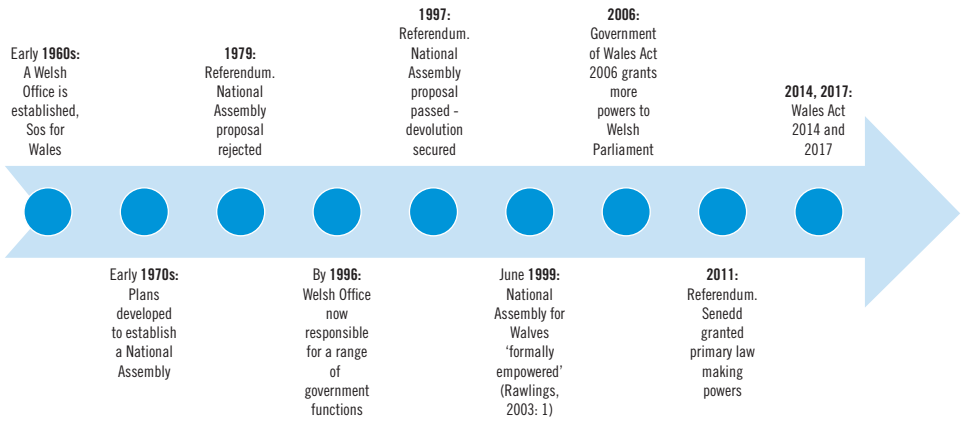

Figure 1 The process of devolution is best thought of as a process rather than an event

and youth justice services in Wales. The lines between the UK and Welsh Government's responsibilities are no longer clear cut. For example, the report did not take account of the fact that although the Welsh Government had (and has) no formal responsibility for police, prison, youth justice, and probation services, it was still (and remains) responsible for developing strategies within policy areas that deal directly with the needs of adult and young offenders in Wales. Its output has included policies aimed at:

- addressing the housing needs of prison leavers (Welsh Government, 2015) (discussed further in 'Conversations', later);
- tackling substance misuse (Welsh Government, 2019);
- combating domestic violence (Welsh Government, 2016); and
- combating hate crime (Welsh Government, 2014).

Although these so-called 'jagged edges' between the UK and Welsh Governments' responsibilities have largely been overlooked and neglected, the overlapping responsibilities for justice in Wales were to be dealt with more comprehensively in the Commission on Justice in Wales inquiry, which reported in 2019.

The establishment of the Commission on Justice in Wales was prompted by the Wales Act 2017. Under the Chairship of the former Lord Chief Justice of England and Wales, Lord Thomas of Cwmgiedd, the Commission was set up to examine the arrangements for policing and criminal justice in Wales. As part of its inquiry the Commission launched a call for evidence which received more than 200 separate submissions from a range of organisations including Welsh police forces, the Ministry of Justice, voluntary sector groups, and academic departments. The Commission also held a number of workshops and events to help gather as much information as possible about policing and criminal justice problems in Wales.

In October 2019 The Thomas Commission published its final report, laying down recommendations for a series of major changes to criminal justice in Wales. This included a proposal that legislative powers over policing and criminal justice should be transferred from the UK Parliament to the National Assembly for Wales. The Commission (2019: 10) concluded that devolution was necessary to ensure that Wales can overcome the 'unduly complex' nature of the current system: one defined by the involvement of both the UK Government and Welsh Government within a shared jurisdiction. Beyond the question of future powers, the Commission's report also outlined a number of other recommendations to help improve the criminal justice system in Wales. These include that:

- A new All Wales Criminal Justice Board should be created to help develop a strategic approach to criminal justice in Wales.
- Criminal justice agencies in Wales should publish a strategy in respect of Black, Asian and Minority Ethnic people in Wales and report annually to the National Assembly.
- Problem solving courts should be established in Wales.
- The age of criminal responsibility should be increased from 10 to at least 12 years.
- Alternatives to women's imprisonment should be developed and improved in Wales.

The Welsh Government responded enthusiastically to the Commission's report and immediately established a small team of officials tasked with implementing its recommendations. The Welsh Parliament also responded to the report, with the Constitutional and Legislative Affairs Committee announcing in January 2020 that it would be changing its name to incorporate 'justice' into its title as well as its remit for future inquiries. However, while the Commission's work was warmly welcomed in Wales, the UK Government in London moved quickly to dismiss its main recommendations and again reaffirmed its own commitment to a shared England and Wales system. The battle lines have now been drawn for a longstanding debate over the future of criminal justice powers in Wales (consider this further through 'What do you think?' 1).

Ironically, although the original aims of the English-Welsh system were to *remove* difference and assimilate Wales with England, Wales is now most often spoken of *because* of its separateness and difference to England. In 2006, for example, NOMS Cymru (National Offender Management Service Wales), the Welsh Government, and the Youth Justice Board (2006: iii) produced a joint strategy to take account of the fact that devolution had created a 'different Welsh perspective' to the delivery of UK justice policy in Wales. The report argued that devolution, within areas such as health, education, housing, and substance misuse, meant that the Welsh Government was able to exercise 'considerable autonomy' in creating policy as well as delivering offender services (NOMS et al., 2006: 8). In more recent years, the Ministry of Justice (2014: 8) told a committee of MPs that, while on the surface criminal justice in Wales is non-devolved, 'much of the work' being done to support offenders upon release in Wales is undertaken by the Welsh Government. More recent examples of divergence between Wales and England include Welsh Government plans to extend voting rights to some Welsh prisoners, legislating to remove the defence of 'reasonable punishment' for common assault on children (often described in the media as a 'smacking ban'), and removing the sanction of imprisonment for non-payment of council tax (Evans et al., 2021).

WHAT DO YOU THINK? 1

Criminal justice powers in Wales

Considering everything you've read so far:

- To what extent do you agree that devolution within the field of policing and criminal justice is necessary?
- What do you think are the advantages of transferring criminal justice powers to the Welsh Government in Cardiff?
- Why do you think the UK government in London has resisted the changes recommended by the Silk and Thomas Commissions?
- What are the possible disadvantages associated with breaking up the England and Wales system?

Administering Welsh criminal justice

The UK government is officially responsible for criminal justice in Wales; it therefore controls and administers the many institutions that operate and run the Welsh criminal justice system. A UK parliamentary minister, the Secretary of State for Justice, is responsible for the Ministry of Justice (MoJ), which oversees executive agencies including Her Majesty's Prison and Probation Service and Her Majesty's Courts and Tribunals Service. In this section we will consider the administration of the Welsh prison service, probation service, and policy relating to the sentencing, treatment, and rehabilitation of offenders.

The prison service

Under the provisions set out in the Prison Act 1952, the Secretary of State has responsibility for the prison estate in Wales—that is, its institutions. In addition to having control over matters such as prison conditions, security, and prison inspectorate, the UK minister also has the power to decide whether to expand or modify the existing prison estate in Wales. In 2013, the then Justice Secretary, Chris Grayling, announced the UK government's decision to expand HMP Parc in Bridgend, South Wales, as well as its intention to build a 'super' prison in north Wales. HMP Berwyn, with a capacity of 2,100, opened in February 2017.

As discussed in Chapters 13 and 24 (amongst others), England and Wales has a high rate of imprisonment: since the first edition of the *World Prison Population List* in 1999, this jurisdiction has recorded the highest rate of imprisonment in half of the twelve Lists published (Jones, 2019). But what does this tell us about imprisonment in Wales specifically? While data for England and Wales are routinely made available by the Ministry of Justice, Wales-only imprisonment data can only be accessed from the UK Government using freedom of information legislation. In recent years, the lack of publicly available Wales-only imprisonment data has been a source of growing concern. Indeed, a report by the Ministry of Justice's own Justice in Wales Working Group concluded in 2017 that improvements need to be made to the way in which 'Welsh-only' data are collected and published by the UK Government in London (Ministry of Justice, 2017).

Analysis of Welsh-only data gathered through the Freedom of Information Act 2000 reveals that Wales' imprisonment rate is not just inflated by England's: Wales has the highest imprisonment rate in Western Europe (Jones, 2019). At the beginning of 2020, there were 162 prisoners per 100,000 people in prison in Wales, compared to 140 per 100,000 in England. This is largely explained by the dramatic increase in prisoner numbers in Wales since HMP Berwyn in north Wales opened in February 2017. The number of people held in the Welsh prison estate surpassed the 5,000 mark for the first time in February 2020.

There has been widespread concern about Wales' high rate of imprisonment, with questions raised about why the country is so reliant upon this justice response and calls for alternatives to be developed. However, despite these arguments, in March 2017 the UK Government declared an intention to build yet another 'super' prison in Port Talbot, South Wales. Although the plans were later rejected by the Welsh Government's Cabinet Secretary for Local Government and Public Services, in January 2020 the UK Secretary of State for Justice re-established the UK Government's commitment to building another prison in Wales. Wales currently finds itself at a crucial crossroads: a step towards radical alternatives or yet more prison expansion. Consider this issue in 'What do you think?' 2.

WHAT DO YOU THINK? 2

Wales-only criminal justice data

We have seen that at present, the Ministry of Justice publishes data for England and Wales regularly, but the only way of accessing Wales-only criminal justice data is through freedom of information legislation. With this in mind:

- What do you see as the problems with the lack of readily-available Wales-only data?
- What might some of the reasons be for the high rate of imprisonment in Wales?
- Where do you stand in the debate between more radical alternatives to imprisonment and further prison expansion? How do your arguments link to the purposes of imprisonment and, more generally, the criminal justice system?

Look up the latest developments in the debate about whether another 'super' prison should be built in Port Talbot. Where do you stand on this issue?

The probation service

In addition to managing the Welsh prison estate, the UK government is also responsible for the probation service in Wales, including how probation policy and practice develops. After the Offender Rehabilitation Act 2014 received Royal Assent in March of that year, the UK government introduced proposals to extend statutory supervision to prisoners serving sentences of less than 12 months, as well as to deliver major changes to the configuration of probation services in England and Wales. The latter changes involved the privatisation of the management of offenders assessed as being low and medium risk. This was the policy known as 'Transforming Rehabilitation', discussed in Chapters 24 and 25.

The UK Government's plans were fast-tracked and received widespread criticism from practitioners and academics (House of Commons Justice Committee, 2014; McNeil, 2013). From June 2014, the National Probation Service (NPS) and 21 Community Rehabilitation Companies (CRCs) were formed to replace the 35 former Probation Trusts. In Wales, the Wales Probation Trust was supplanted by a new National Probation Service for Wales, responsible for managing high risk offenders, and the Wales CRC, which was contracted to manage offenders deemed low and medium risk. However, as you will know from reading Chapters 24 and 25, despite the speed and confidence with which these plans were implemented, the UK Government's efforts to *transform rehabilitation* services failed. By February 2019, the company responsible for the Wales CRC had entered into administration and the Ministry of Justice had already been forced into plans to return Welsh probation services to the public sector. The National Probation Service in Wales assumed full responsibility for all probation services in Wales in December 2019 as part of a jurisdiction-wide return to an integrated model of public sector provision.

Sentencing, treatment, and rehabilitation of offenders

Beyond its responsibilities for the structure and administration of prison and probation services in Wales, the UK government also has a responsibility for shaping the direction of criminal justice policy as a whole. This includes the power to introduce legislation that can potentially alter sentencing practices across Wales—in any direction it prefers. One example includes the UK Government's plans to extend the length of custodial sentences for those convicted of violent and sexual offences in England and Wales (Ministry of Justice, 2020). However, although the UK government is responsible for many of the controls over Welsh criminal justice policy, the devolved government does also shape the treatment of offenders and prisoners in Wales. Its duties include full responsibility for the primary and secondary healthcare needs of prisoners in Wales (e.g., Welsh Government, 2011 and 2012), as well as the educational needs of those held in Welsh prisons (e.g. Hanson, 2019; Welsh Government, 2009). In addition, the devolved government has a wider set of responsibilities relating to substance abuse (e.g. Welsh Government, 2008 and 2019) and tackling the housing needs of Welsh offenders (e.g. Welsh Government, 2015).

Since taking on responsibility for offender housing needs as part of its wider programme of government, some of the Welsh Government's policies within the area have come in for high praise. For example, up until its removal in the Housing (Wales) Act 2014, the provisions contained in the Homeless Persons (Priority Need) (Wales) Order 2001 were widely seen as representing a

positive and progressive policy in tackling homelessness amongst Welsh prison leavers. In 2010, a report by HM Chief Inspector of Prisons (HMCIP) heaped praise on the Welsh Government's approach to tackling homelessness and concluded that housing provisions in place for Welsh prisoners should be used to 'provide an example' to authorities in England (2010: 5).

However, the problem of prisoner homelessness in Wales appears to be on the rise, a trend that has been attributed to recent legislative changes in the country. Following an inspection of HMP Cardiff in 2019, HM Inspectorate of Prisons (2019) found that 47 per cent of prisoners were homeless prior to their release into the community. In response to these findings, the Chief Inspector of Prisons, Peter Clarke, wrote to HM Prison and Probation Service and Welsh Government to urge them to find a solution to 'this very serious problem' (HMIP, 2019: 6). In particular, the Welsh Government's withdrawal of its policy to provide unintentionally homeless prison leavers with automatic 'priority need' status when it comes to providing temporary accommodation has contributed to an increase in street homelessness in Wales (Mackie, 2017; Shelter Cymru, 2017). A report by the Welsh Parliament's Equality, Local Government and Communities Committee in 2018 recommended that the Welsh Government reinstate automatic 'priority need' to help overcome the shortfalls associated with its latest policy. The decision to remove prisoners from the list of those given 'priority need' status has been felt by many across Wales including those working to provide homelessness services. We hear from a representative of Shelter Cymru in 'Conversations'.

CONVERSATIONS

The gain and loss of housing rights for homeless prison leavers

with ***Jennie Bibbings***

In 2001 the Welsh government took the first step towards developing an approach to homelessness that is uniquely Welsh. The Homeless Persons (Priority Need) (Wales) Order 2001 created an automatic priority need for accommodation for former prisoners who had been homeless since leaving custody. The Order was brought into force with a spirit of determination and a conviction, shared by government and the third sector, that homelessness should be addressed through solutions designed not in response to moralising arguments about 'rewarding' criminality, but grounded in evidence.

It is generally accepted that being homeless post-custody increases the likelihood of reoffending (e.g. Poyser and Hopkins, 2012). The rationale for the 2001 Order was recognition that time in custody carries with it a risk of losing one's home and that housing issues are difficult to resolve while in prison. The Order paved the way for a maturing approach to Welsh homelessness policy, eventually culminating in the comprehensive rights framework of Part 2 of the Housing (Wales) Act 2014.

In the process, however, automatic priority status for prison leavers was lost. The 2014 Act replaced the 2001 category with a new one aimed at a subset of prisoners who were deemed vulnerable *as a result of their stay in prison*, reducing eligibility to those who could demonstrate they had been institutionalised. Why did the Welsh government re-introduce a vulnerability test, after 13 years of services operating without one?

During the Housing Bill's development, one criticism was that the government had not established a framework for monitoring the impact of the 2001 Order on re-offending, and that the resulting lack of data made evaluation difficult. At the time, people released from prison comprised one in seven homeless applicants: a significant resource burden for local authorities, from whom there came a strong message that the system was not working. 'Some local organisations are suggesting that many are in an unbroken cycle of homelessness, being provided with accommodation, re-offending and prison,' said the *Homes for Wales* White Paper (Welsh Government, 2012).

While the impetus to review priority need for prison leavers came from local authorities' dissatisfaction, some studies painted a more nuanced picture, finding evidence that unsuccessful outcomes were linked to the unsuitability of temporary accommodation provided to prison leavers and a lack of suitable support. Moreover, some local authorities were achieving equally positive outcomes with people leaving prison as with general homeless applicants (Mackie, 2008).

The demonstration of pockets of good practice was not, however, a strong enough argument. What spelled the demise of the 2001 Order was its weakening effect on partnership working: the fact that other (mainly non-devolved) agencies working with prison leavers had stepped back from providing housing assistance in the

knowledge that Welsh authorities had an accommodation duty. This was reflected in research on the 'necessary, but not sufficient' condition that housing plays in reducing reoffending (Humphreys and Stirling, 2008), and ultimately was communicated to the public as a moralising argument (see, for example, BBC News, 24th October 2013).

For Welsh prison leavers the compensation for losing automatic priority need is a new entitlement to prevention assistance, which is shared with all people at risk of homelessness within 56 days, regardless of vulnerability. Although not a full accommodation duty, authorities are now tasked with undertaking agreed steps to 'help to prevent' homelessness. In order to carry out this pre-release preventative work effectively, homelessness and criminal justice services need to cooperate.

Making this work is an ongoing challenge (Madoc-Jones et al., 2018). Seven years on, our services still find people regularly released from prison without an assessment of the housing duties owed to them. Often, people are released lacking ID, prescription medication, or a bank account. Without a letter from the authority stating whether a homelessness duty has been accepted, people are leaving prison not knowing if they will be placed in temporary accommodation or how to request a review of the authority's decision. Some have slept rough following release despite having mental health diagnoses and limited coping skills.

If people are placed in temporary accommodation it is often unsuitable for their needs, located far from Jobcentres and doctors' surgeries: people from North Wales are regularly accommodated in England and are expected to travel back to Wales to pick up prescription medication such as methadone, including during the Covid-19 lockdown period. Our frontline workers feel that in practice, little has changed since pre-2014: too often, prison leavers are set up to fail. Homelessness charities are increasingly advocating the creation of a public sector homelessness prevention duty to make cross-sector cooperation a higher priority.

Jennie Bibbings, Head of Campaigns, Shelter Cymru

References

BBC Wales News 'Welsh offenders getting put behind bars to get a home'. 24th October 2013. https://www.bbc.co.uk/news/av/uk-wales-24662366

Humphreys, C. and Stirling, T. (2008) *Necessary but not sufficient: housing and the reduction of reoffending*.

Mackie, P. (2008) *This time round: exploring the effectiveness of current interventions in the housing of homeless prisoners released to Wales*. Shelter Cymru; Bibbings, J. (2012) *Policy briefing: homeless ex-offenders in Wales, 2010/11*. Shelter Cymru.

Madoc-Jones, I. et al. (2018*) Evaluation of homelessness services to adults in the secure estate: main findings report*. Welsh Government.

Welsh Government (2012) *Homes for Wales: A White Paper for Better Lives and Communities*: par. 8.28.

Williams, K., Poyser, J. and Hopkins K. (2012) *Accommodation, homelessness and reoffending of prisoners: Results from the Surveying Prisoner Crime Reduction (SPCR) Survey. Research Summary 3/12*. Ministry of Justice.

In addition to housing, in 2004 the Welsh Government rolled out its very own Transitional Support Service (TSS) aimed at tackling the resettlement needs of short-term offenders suffering from substance misuse-related problems. According to an evaluation of the service in 2010, those in contact with TSS were 'overwhelmingly positive' about their experiences (Maguire et al., 2010: iv). Despite the praise directed towards TSS, the service was abolished in 2015 to make way for the UK Government's *Transforming Rehabilitation* agenda and changes to offender management in England and Wales.

In summary, devolution to Wales since 1999 has given the Welsh Government a considerable amount of responsibility and policy autonomy over areas that are key to the delivery of criminal justice in Wales. The Welsh Government has—at least historically—demonstrated a willingness to use its autonomy to adopt alternative approaches. Nevertheless, while this has been apparent in relation to criminal justice more generally, the opportunities created by devolution are perhaps most clearly viewed when examining youth justice policy in Wales. We will consider this aspect of criminal justice a little later in the chapter (see 'Youth justice in Wales'), but first we should pause and make some explicit points about the development of criminal justice policy in Wales following democratic devolution.

Welsh criminal justice policy and politics

As will have become clear, criminal justice policy cannot be considered in isolation from other policy domains; particularly those areas that might be described as dealing with social justice issues. As we have discussed, full criminal justice powers have not been granted to Wales. However, Wales has been given powers to make policy

in key areas of social justice that can influence the work of criminal justice agencies, including health, education, personal social services, housing, and important aspects of economic policy. These are all areas that do not only influence whether people are likely to have contact with the criminal justice system in the first place; they also influence the outcomes for those that do. Both criminal justice and wider social policies are shaped by politics and culture, so it is important to understand something of the political dynamics at work around the time of devolution arriving in Wales.

The political culture in Wales

Wales, unlike England, has been a country that has always returned a majority of 'left of centre' representatives to the House of Commons in General Elections. Initially, this political culture found its expression in support for the Liberals, but latterly the Labour Party has been the dominant party—although it is important to recognise that Plaid Cymru (a social democratic nationalist party committed to constitutional independence) has established itself as a strong presence in the predominantly Welsh-speaking communities of the south-west and north-west of the country.

The first wave of devolution in the UK took place in the first term of the New Labour Government led by Tony Blair. New Labour won an overwhelming General Election victory in May 1997 and the referendum on whether to establish a National Assembly for Wales took place in September of that year. Ahead of that referendum a broad-based campaign for a 'Yes' vote was established, bringing together the main non-Conservative parties (Labour, Liberal Democrats, and Plaid Cymru) as well as the politically non-aligned and representatives of civil society (trade unions, churches, etc.). As we have noted (see 'Controversy and debate'), the margin of victory in that referendum vote was narrow, but the campaign had brought people together of different political traditions and helped to lay the foundations for a culture of consensus in the new Assembly. The desire to bring consensus extended to the Conservative Party which, despite having campaigned against the Assembly, resolved to make the institution work.

Plaid Cymru performed strongly in the first Assembly election in 1999, capturing support beyond its traditional Welsh-speaking heartlands, but Labour was the largest party and governed in coalition with the Liberal Democrats. One would have thought that with Labour in office in both Cardiff and London there would have been a seamless approach to governing. However, key Labour figures in the new Assembly did not subscribe to quite the same underpinning philosophy as New Labour and it could be argued that some Labour Assembly Members (as they were then called) had more in common with at least some Assembly Members in other, centre left/social democratic parties. What became clear at a very early stage of the Assembly's history was that devolution had implications for the Labour Party in Wales. It was recognised that party headquarters in London would need to relinquish much of its control over the party in Wales, and a distinctive brand of Labour politics in Wales duly came of age: Welsh Labour. This distinctive brand was nevertheless open to working with other parties that were broadly supportive of its agenda (typically, the Welsh Liberal Democrats and Plaid Cymru).

Distinguishing Welsh from English policy

When Rhodri Morgan, Assembly Member (AM), became Wales's second First Minister, he announced his intention of putting 'clear red water' (Morgan, 2002; Chaney and Drakeford, 2004; Drakeford, 2007; Davies and Williams, 2009) between the approach being taken by New Labour in London and the newly-established Assembly administration. The phrase 'clear red water' was a signal that a more traditional democratic socialist approach would be taken in Wales than the more centrist and free market-friendly path being pursued in London, and it was declared that Welsh problems demanded solutions made in Wales. A convention was established that UK Labour leaders in London would not comment on devolved matters and Welsh Labour leaders would reciprocate by not straying into policy areas that remained the preserve of Westminster (e.g. foreign policy).

An early measure taken was to facilitate ease of movement between academic staff in universities and Welsh Government (Welsh Assembly Government, 2003), paving the way for secondments to advise on key areas of policy. Mark Drakeford, who later became leader of Welsh Labour and First Minister (2018-present), was one such person who followed this route into influencing Welsh government policy. At the time a Cardiff University academic and Special Adviser to the First Minister, Drakeford (2010) identified five principles that informed the approach to government in respect of social policy:

1. a commitment to the ideal of good government;
2. universal rather than narrowly targeted provision;
3. viewing the relationship between the individual and the state as one of citizenship rather than consumerism;
4. a commitment to not only equality of opportunity but also equality of outcome; and
5. a commitment to pluralism and diversity.

The *first principle*, is the idea that, despite criticisms that are made of 'big government', government 'remains the most effective vehicle through which collective solutions can be applied to common problems' and is preferable to relying on the market to deliver answers (Drakeford, 2010: 142). In Welsh political culture, it could be argued, the role of the state in supporting communities is generally accepted rather than resented.

The *second principle* is a commitment to universal rather than narrowly targeted provision (although there is recognition that those in greatest need may require additional services). Indeed, unlike England, Welsh Government continues to provide prescribed medication free of charge because it is committed to the principle of universalism. The reasons for this commitment are:

- Any possible savings derived from means-testing or identifying target populations do not often outweigh the benefits of universalism.
- Universal services build a sense of social solidarity and a sense of common citizenship, uniting the population across social classes in a community of interest.
- If members of the middle classes receive such universal services, they are more likely to be of a higher quality, because middle-class citizens can use their social position and connections to influence the improvement of such services. Services designed exclusively for poor people risk becoming poor services.
- Universal services are less likely to stigmatise their users.

It is worth noting that the commitment to universalism almost inevitably falls short in terms of its actual implementation on the ground, particularly when cuts to public spending follow a reduction in funding from the UK Treasury in London.

The *third principle* characterises the relationship between the individual and the state as one of citizenship rather than consumerism. If we imagine the relationship between the state and the individual as a social contract (Hobbes, 1660; Rousseau, 1762), this involves the state guaranteeing a set of rights and, in social justice-oriented models (Rawls, 1971), a package of entitlements for its citizens (as distinct from 'opportunities' in England). As we will later discuss, this principle has a significant impact on children and young people. They, too, are viewed as rights-bearing citizens with access to entitlements.

The *fourth principle* is a commitment to not only equality of opportunity but also equality of outcome. In other words, meaningful equality of opportunity can only be achieved when a so-called 'level playing field' has been established. So, for example, irrespective of socio-economic position and geographical location, people should be able to enjoy broadly the same outcomes in terms of education and health. The aim is to eliminate the sharp disparities in life expectancy and educational attainment that result from social inequality (Wilkinson and Pickett, 2009; 2018).

The *fifth principle* relates to a commitment to pluralism and diversity. This principle refers to engaging with the ethnically, religiously, and culturally diverse composition of Wales, including the 19 per cent of the population who speak Welsh. It is worth mentioning here that the issue of inequality for Welsh language speakers that we discussed in 'Controversy and debate' continues to negatively affect young people in the criminal justice system (Madoc-Jones and Buchanan, 2004). For example, young people who are first-language Welsh speakers may not be able to receive education through the medium of Welsh if they are sent to custodial establishments outside of Wales. The commitment to diversity is also reflected in a commitment to recognising children as citizens with rights, including participation rights.

Children's rights and children's social policy in Wales

One of the areas in which there has sometimes been divergence between Wales and England is children's rights and youth policy, and one of the biggest differences has, at times, been in youth justice. For example, you may already be familiar with the way in which New Labour represented at least some young people as being 'antisocial' and a threat to public order (see Chapter 9). We discuss youth justice in Wales shortly (see 'Youth justice in Wales'), but for this discussion of political and policy context it is important to make the point that under devolution there has been an attempt to extend the third of Drakeford's principles, the principle of citizenship, to children and young people. From the early days of the Assembly there has been a commitment to children's human rights and the idea that young people are citizens with entitlements enshrined in a social contract with the devolved Welsh state.

Wales was the first nation in the UK to create the office of a Children's Commissioner, a role independent of government that upholds children's human rights (www.childcomwales.org.uk). The United Nations Convention on the Rights of the Child (UNCRC) was drafted in 1989 and ratified by the UK in 1991. The Welsh Assembly Government formally adopted its principles in 2004, committing itself to involve young people in contributing to policies that affected them (Butler, 2011). The essential principles of the UNCRC can be organised into four main categories:

- survival rights (e.g., the inherent right to life, food, and healthcare);

- development rights (e.g., cultural rights, education, and access to the arts);
- protection rights (e.g., protection from persecution, sexual exploitation, and injustice in the administration of criminal processes); and
- participation rights (e.g., right to freedom of expression, access to information, and freedom of peaceful assembly).

We could therefore argue that the Convention not only confers individual rights such as freedom, but also unconditional social rights such as education. Moreover, access to such social rights is not dependent upon whether a young person has or has not broken the law. For Drakeford (2010: 144), 'as far as children are concerned, there is an inseparable relationship between welfare and rights, with rights being the guarantor of welfare and participation comprising the key to good governance'.

So, how has the Welsh Government attempted to implement these universal principles in practice? An early example was the translation of the UNCRC principles into seven core, universal aims of policy-making that were supposed to apply to children (Welsh Assembly Government, 2004a), which have subsequently been reaffirmed and developed (Welsh Government, 2015a; and 2015b). It was declared that all children and young people should:

- have a flying start in life and the best possible basis for their future growth and development (Articles 3, 6, 18, 27, 28, 29 and 36);
- have access to a comprehensive range of education, training, and learning opportunities, including acquisition of essential personal and social skills (Articles 3, 13, 14, 17, 28, 29;
- enjoy the best possible physical, mental, social, and emotional health, including freedom from abuse, victimisation, and exploitation (Articles 2, 5, 6, 11, 14, 19-27, 30, 32 and 34-40);
- have access to play, leisure, sporting, and cultural activities (Articles 15, 23, 29 and 31);
- be listened to, treated with respect, and have their race and cultural identity recognised (Articles 3, 12-17);
- have a safe home and a community which supports physical and emotional well-being (Articles 9-11, 15, 16, 23, 33, 37 and 40); and
- not be disadvantaged by child poverty (Articles 18, 26 and 27).

It is worth noting that many of these core themes depend on adequate resourcing. Tackling child poverty, for example, is difficult when Welsh Government has no control over Social Security, and since the financial crash of 2007/8 there have been year-on-year reductions in public expenditure as a result of so-called 'austerity budgets' passed on by the UK government. This can lead to situations where policies look good on paper, but are not implemented fully because of a lack of money.

The Rights of Children and Young Persons (Wales) Measure, passed in 2011 and implemented since 2014, is nevertheless significant because it strengthened the commitment to children's rights by requiring Ministers to have 'due regard' to the UNCRC when exercising their functions. In 2017 this duty was extended to local authorities. (Note that these legal duties do not apply in England.) The translation of the UNCRC principles into Welsh policy does, however, fall short of full legal incorporation. This means that the type of legal remedy available via the Human Rights Act 1998 cannot be used in Wales.

Another early example of the Welsh approach to the rights of children and young people is *Extending Entitlement* (National Assembly for Wales, 2000), a policy aimed at those aged between 10 and 25 years. This is interesting because it applies to young adults as well as children. This policy should therefore have implications for both children and young adults who come into contact with the criminal justice system and its agencies (which include not only the Youth Offending Services, but also probation services and adult custodial regimes). One important organising principle of *Extending Entitlement* is that it is an opportunity-focused policy as opposed to being problem-oriented. In other words, it aims to seek out positive opportunities that will help young people realise their full potential rather than viewing young people as social problems that need to be fixed. The policy flows from a commitment to maximising outcomes rather than merely meeting minimum standards (Case and Haines, 2015). It also formalises a relationship of citizenship between the individual child or young person and the state. In this social contract, the state guarantees both individual and social rights. Children and young people are deemed to be citizens of Wales with absolute rights and social entitlements. The 10 universal entitlements set out by the policy are as follows:

1. Education, training, and work experience—tailored to their needs.
2. Basic skills which open doors to a full life and promote social inclusion.
3. A wide and varied range of opportunities to participate in volunteering and active citizenship.
4. High-quality, responsive, and accessible services and facilities.
5. Independent, specialist careers advice and guidance, and student support and counselling services.

6. Personal support and advice where and when needed and in appropriate formats—with clear ground rules on confidentiality.
7. Advice on health, housing benefits, and other issues—provided in accessible and welcoming settings.
8. Recreational and social opportunities—in a safe and accessible environment.
9. Sporting, artistic, musical, and outdoor experiences to develop talent, broaden horizons, and to promote a rounded perspective including both national and international contexts.
10. The right to be consulted, to participate in decision-making, and to be heard, on all matters which concern them or have an impact on their lives.

These entitlements should be delivered in an environment where there is:

- a positive focus on achievement overall and what young people have to contribute;
- a focus on building young people's capacity to become independent, make choices, and participate in the democratic process; and
- the celebration of young people's successes.

So how does all of this relate to children and young people who break the law? From the perspective of youth justice practice (with children aged 10-17) and probation practice (with young adults aged 18-25), what tangible difference could this *Extending Entitlement* policy potentially make? The criminal justice system in the jurisdiction of England and Wales places a great deal of emphasis on holding the child or young offender to account. With the introduction of this Welsh youth policy, however, the principle of accountability could be extended to those agencies responsible for supporting young people (education, health, social services, etc.). The question could be posed as to whether young people had received their universal entitlements and if not, why not? The young people could then be connected or reconnected to those entitlements as soon as possible. The fact that these entitlements included recreational, sporting, and cultural opportunities also meant that they could not be construed as 'rewards' for offending. These opportunities were supposed to be the *rights* of young citizenship. Viewing young people holistically was always the aim of the policy:

> '. . . government policies have tended to focus on only one manifestation—the offender, the homeless young person, the school refuser and so on, and that particular policy context defines the problem rather than listening to the young person to see things more in the round and address the underlying causes.' (National Assembly for Wales, 2000: 25)

The Welsh youth policy approach that was framed in 2000 was in sharp contrast to the ideas being discussed in English youth policy circles in the same period. An example of the distinctively New Labour approach can be found in *Youth Matters*, a document published in 2005, which outlines how responsibility should be placed on the individual by rewarding pro-social behaviour and penalising those involved in anti-social conduct. One of the big ideas of this policy was the 'opportunity card':

> '. . . we will support Local Authorities to develop and pilot "opportunity cards". These cards would provide discounts on a range of things to do and places to go and could also be topped up by young people and their parents with money to spend on sports and other constructive activities. Subject to piloting, we will establish a national scheme to support the roll-out of local opportunity cards. Central Government will also top up the opportunity cards of disadvantaged 13–16 year olds. This subsidy would be withheld from young people engaging in unacceptable and anti-social behaviours and the card suspended or withdrawn. Over time, we could expect to see Local Authorities choosing to fund sports and other constructive activities for young people by topping up their opportunity cards. Top-ups could also be used to reward young people for volunteering or for making progress in improving their situation.'
>
> (HM Cabinet Office, 2005: 6)

As you can see, those most likely to benefit from leisure, recreation, and constructive activities would be denied access within this English policy model; arguably reinforcing their social exclusion. The philosophical differences between the two approaches are clear and reflect very different sets of assumptions about young people—remember the different views of childhood and youth we discussed in Chapter 9. In England, young people were regarded as inherently risky and needing to be taught responsibility for their actions through 'carrot-and-stick' (coaxing and punishing) measures, whereas in Wales young people were seen as needing help to negotiate inherently risky social contexts. As Drakeford (2010: 143) comments, 'While in England the emphasis has been firmly on making individual young people responsible for fully exploiting available opportunities, in Wales the emphasis has been on ensuring that providers assume the responsibility for making services readily accessible—especially to those who need them the most.'

Policy documents are important, but to what extent do they change what happens in practice? There can often be a difference between what is stated and what happens on the ground. A framework which helps us to analyse how far policies' agenda are implemented in practice is Fergusson's (2007) distinction between *policy as rhetoric*, *policy as codification*, and *policy as implementation*.

- *Policy as rhetoric* refers to how policies are presented to the public and practitioners, which will also often include clear narratives, messages, and media soundbites about an issue or a social problem. 'Tough on crime,

tough on the causes of crime' would be one example, as would 'children first, offenders second'. Rhetoric is more than a collection of memorable but empty catchphrases, though. In an interview, Drakeford declared that rhetoric is important: 'The way we talk about things shapes the way we think about things, and the way we think about things shapes the way we act on things' (Evans et al., 2021: 11).

- *Policy codification* refers to policy directives, standards, guidance, processes, and objectives.
- *Policy implementation* refers to how practitioners interpret and apply directives. Although managers monitor that rules and guidelines are being applied, practitioners still enjoy considerable freedom. This is often referred to as 'street-level bureaucracy' (Lipsky, 1980; Hupe et al., 2015); a concept that recognises the constraints within which many practitioners operate, but also their independent agency in terms of how they use discretion and judgement to interpret statute and management directives in light of their own professional knowledge and values.

So, to what extent has *Extending Entitlement* made a difference to practice on the ground? Apart from research conducted by Haines et al. (2004), there has been no independent evaluation of the policy's efficacy and impact in recent years. The impression we gain is that implementation was always uneven, but recently the policy seems to have faded from collective memory. In an interview, Haines observed:

> 'This was a staggeringly amazing piece of work that was sadly not properly implemented. Very poorly understood. I would go around asking groups of practitioners from all sorts of different organisations, not just YOTs [youth offending teams]. I sat for a while on the Wales Youth Justice Advisory Panel and the membership of that changed and I raised *Extending Entitlement* in one of the meetings. Nobody had heard of it. That is an appalling testament to the lack of attention to policy promotion, let alone implementation. Had it been properly implemented it would have transformed the experience of growing up for children in Wales.'
>
> (Evans et al., 2021: 9-10)

If our impressionistic assessment is correct, it would seem that—if we apply Fergusson's framework of analysis—the *rhetoric* probably survives in some places, the *codification* is weak and the *implementation* patchy. At the time of writing, however, the Welsh Government is currently reviewing *Extending Entitlement*. It is therefore possible that the policy will be refreshed and relaunched in the future.

The full implementation of Welsh youth policy may have stalled, but there have been other important developments in children's policy that have been reflected in new Welsh laws and policies. The Social Services and Well-being (Wales) Act 2014 and the Well-being of Future Generations (Wales) Act 2015 aim to promote the health and well-being of all citizens, including children, by requiring services to work together through Public Service Boards. The Acts emphasise the importance of service users, including children, being actively involved in shaping policy and the delivery of services.

For a fuller understanding of the Welsh policy landscape as it impacts on children and young people, we suggest you read the helpful overview provided by Smith (2019), but one development that will be of particular interest to students of criminal justice is the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020. This statute, which is in line with Scotland and many other nations around the world (although not England), abolishes the common law defence of 'reasonable punishment' that could previously be used by parents and carers in relation to the corporal (physical) punishment of children. It is due to come into effect from 2022. Often referred to as the 'smacking ban', this legislation (which, though welcomed by many, is not without its critics) means that the law will be applied equally to children and adults (it is against the law to administer corporal punishment to adults). This is not only consistent with children's rights, but also extends the principle of citizenship to children and moves away from the idea that children 'belong' to parents—similarly to the idea that women do not belong to husbands and fathers.

Youth justice in Wales

We have already touched on youth justice in several contexts, but here we focus on this important aspect of the system in more depth. As we have seen, in a formal and legal sense youth justice in Wales remains a non-devolved matter. It is the responsibility of the Ministry of Justice and the Youth Justice Board. In the early days of the establishment of the new youth justice system, with the passage of the Crime and Disorder Act 1998, youth offending services in Wales, like England, were subject to the directives, National Standards, and 'key performance indicators' (ways of measuring success in relation to particular aims) of the Youth Justice Board in London. However, as

a result of democratic devolution, the Welsh Government became responsible for many of the areas of policy that impacted directly on children. Youth Offending Services are made up of core staff from social services, education, health, probation, and the police, and since devolution the first three of these policy areas have fallen under the direct control of Welsh Government in Cardiff. Only the final two are the responsibility of the UK government in London. According to Drakeford (2010: 139), between 50–70 per cent of the total budgets of youth offending services derive from Welsh Government service areas.

This uneven division of responsibility exposed the differences between the Welsh and UK governments in their approach to policy, and in this way created potential for tension within the system. An early example of the Welsh government choosing to emphasise different areas of policy in line with its guiding principles was the Assembly's decision to locate youth justice in the portfolio of Health and Social Services rather than within Crime Prevention and Community Safety. This was done to try to create a child-friendly environment within the recently established youth offending services (Cross et al., 2003: 156). At the inaugural meeting of the All Wales Youth Offending Strategy Group, Jane Hutt AM (the then Health and Social Services Minister) identified the need for negotiating a common approach that acknowledged the respective responsibilities of the administrations:

> 'It presents a real opportunity to establish valuable cross-cutting lines between the Youth Justice Board's criminal justice responsibilities and the Welsh Assembly government's devolved duties in respect of the social well-being of young people, including health, education, training and employment.'
>
> (National Assembly for Wales, 2002)

This early recognition of the need to align services prompted a process of negotiation between the Welsh Government and the Youth Justice Board (YJB); an ongoing process which continues today. The relationship has reportedly not been without tension and conflict at some points, particularly in the early years of New Labour when the YJB adopted a tougher approach to youth justice practice. As Howard Williamson (YJB member for Wales from 2001 to 2009) commented, 'When I joined the YJB, it was dreadful—it paid no attention to the Welsh context' (National Assembly for Wales, 2009a: para 88). Even some years later the responsible Welsh Government minister, Edwina Hart, stated:

> 'I do not always agree with UK Government policy in these areas. For example, we have grave concerns about fixed penalty notices and such issues. The UK Government over-emphasises some issues that I would not when, for example, trying to deliver children back into society.'
>
> (National Assembly for Wales, 2009b: para 34)

Over time, such issues were resolved through the offices of the Youth Justice Committee for Wales (which included representatives from the Welsh Government, YJB, Home Office, police, National Offender Management Service, YOT Managers Cymru, and third sector organisations). More recently this committee has been replaced by the Wales Youth Justice Advisory Panel, which has a broadly similar composition but also now includes representation from the police, Crime Commissioners' offices, and university-based academic researchers, among others. An early and successful product of this collaborative approach was the All Wales Youth Offending Strategy (Welsh Assembly Government, 2004b). Haines (2010: 238) has since highlighted some of the underlying tensions in the document's joined-up approach, but it did include features that at the time made it distinctive from England. These included the following elements:

- the direct identification of the UNCRC as the cornerstone of the strategy;
- the explicit extension of the rights set out in *Extending Entitlement* to young people in trouble with the law;
- a commitment to work with the Children's Commissioner for Wales to mainstream and embed consultation with, and the participation of, children and young people in the youth justice system;
- a determination that young people should be treated as *children first and offenders second*; and
- an emphasis that custody for children really should be deployed only as a last resort.

The more recent joint statement by Welsh Government and the Youth Justice Board (2014: 3), *Children First, Offenders Second*, develops—as the title implies—this explicitly child-friendly vision. As we can see from the brief passage below, there is an open commitment to diverting young people away from the formal youth justice system:

> 'We want a country in which we all work to prevent children and young people from entering the youth justice system. But if young people do offend, we want to ensure the system and associated services do all they can to help and support them to have the best chance of not having further convictions. Children and young people at risk of entering, or who are in, the youth justice system must be treated as children first, offenders second in all interactions with services.'
>
> (Welsh Government and Youth Justice Board, 2014: 3)

Since the early days of the devolution project, the Welsh approach has attempted to move beyond interpreting the concept of youth justice in narrow criminal justice terms. Addressing young people's offending and the

harm they may have caused to victims and communities is clearly an important aim for youth justice, but the 'Children First' philosophy is committed to also bringing justice into the lives of children.

Clients of the youth justice system are overwhelmingly from socially disadvantaged backgrounds (Bateman, 2020) and many of those with more persistent patterns of offending will have experienced victimisation themselves (McAra and McVie, 2010; McAra, 2018). The over-representation of children with a background in public care in the youth justice system (one-third of boys and two-thirds of girls in custody have been Looked After—the term given to children who have been in the care of their local authority for more than 24 hours) is a reasonably good indicator of troubled and disrupted personal and family histories. In many cases, this includes the experience of abuse (physical, sexual, and emotional) and neglect, as well as exposure to domestic violence, substance misuse by parents/carers, bereavement, and periods of homelessness (Prison Reform Trust, 2016; Evans, 2018). When young people have suffered from trauma, poverty, and social exclusion, the argument is that we should focus on remedying these injustices.

There is sometimes a tendency to refer to socially excluded young people as 'disaffected', which implies that the issue is mainly to do with a negative attitude towards conformity or authority. This may or may not be true, but we need to ask whether such attitudes are more likely to develop when social support systems such as education, health, and youth services are either inappropriate, unavailable, or difficult to access. The process of disengagement—from education, training, and employment, for example—is far from being the sole responsibility of the child. In the 'Children First' model embedded in the underpinning ideals of the *Extending Entitlement* policy, the role of the adults working in the relevant agencies and systems is to actively 'reconnect the disconnected' child to mainstream services (Evans, 2014). Youth justice workers have a critical part to play in coordinating a joined-up response to a disadvantaged young person at odds with the law.

One of the critical points in a young person's journey after committing an offence is the decision as to whether they should enter the formal youth justice system or whether they should remain outside the system—in other words, should be 'diverted'. Although there is evidence that diversion helps to facilitate the process of desistance from offending (McAra & McVie, 2010; McAra, 2018; Motz et, 2020), what form should it take (see Chapter 29)? The option of taking no further formal action, often referred to as 'radical non-intervention' (Shur, 1973), is usually based on two related ideas: the first is that labelling confirms people in their criminal identity and extends criminal careers; and the second is that, left to their own devices, most young people will 'grow out of crime'. The case for such radical non-intervention might be regarded as 'benign neglect' in respect of many young people. However, diverting young people with problems and unmet needs away from the youth justice system without taking any positive action to help them is likely to be experienced as 'malign indifference' (Drakeford and Williamson, 1998).

Is it possible to develop a non-stigmatising model of diversion that can also offer constructive support and guidance for those that need it? The Swansea Bureau model is one example of diversion that has received a great deal of academic attention. It also probably comes closest to putting into practice both the 'Children First, Offenders Second' philosophy and applying the *Extending Entitlement* policy. In that sense it is a good example of a model of diversionary practice that embodies Welsh policy. This model is discussed in detail in Chapter 30, in the context of diversion as an alternative to punishment, and described in Conversations 30.2 by Professor Kevin Haines (one of the authors of this chapter). We will therefore confine ourselves to a few comments here.

Operating within a children's rights framework and the philosophy underpinning the *Extending Entitlement* policy, the Swansea Bureau made the case for a more positive form of diversion (Haines et al., 2013; Case and Haines, 2015; Haines and Case, 2015). Within the framework of the *Extending Entitlement* policy, part of the role of youth justice workers was to assess whether children were receiving all of their universal entitlements. If they were not, then they needed to be reconnected to those services, supports, resources, and opportunities. Adults working in agencies and services for children were therefore made responsible for ensuring young people received their entitlements. In its original form, the Swansea Bureau was extremely successful in reducing the number of young people entering the youth justice system, cutting reoffending rates (Haines et al., 2013: 175–84) and saving public money on court proceedings and associated costs. In one financial year, over £2.8 million was saved by the Swansea local authority (City and County of Swansea Cabinet, 2013: 110). It is worth reflecting on how such savings could be reinvested in services for children and their families. At the time of writing, all but one local authority in Wales have adopted and implemented a Bureau system, although some dilution of the original model may have taken place.

Conclusion

In this chapter two key questions have emerged. First, what makes Welsh policy distinctive? Secondly, to what extent has a distinctive Welsh policy been put into practice across the country? As we have mentioned, the dragon is the national symbol of Wales, so these questions are sometimes expressed in terms of 'dragonisation' (see Evans et al., 2021 for a recent example). Consequently, questions about the extent to which social and criminal justice policies are distinctively 'Welsh' (or different to England) are framed in terms of whether they are 'dragonised'.

The dragon is, of course, a mythical creature, but myths—particularly national myths—still have meaning, significance, and power. Whether for good or ill, 'mythtory' (as opposed to 'history') is arguably a more important mobilising force in politics and policy formation than history or the social sciences. Nations are almost always socially, culturally, and religiously diverse. Myths, symbols, and national narratives therefore play an important part in binding together such diverse groups. Williams (1985) argues that myth is a key element in the composition of national narratives (stories that create a sense of national identity and belonging); a way of drawing upon usable pasts in order to move towards attainable futures. Anderson (2006) also depicts nations as 'imagined communities,' arguing that individuals imagine themselves as being part of a larger group that creates 'the nation', meaning that states are constructed in the collective imagination of their citizens, rather than being fixed and unchanging realities. In this light, to what extent have Welsh politicians, policy makers, and academics been in the business of myth-building with regard to the dragonisation of Welsh criminal and social justice policy? To what extent has this narrative actually affected practice on the ground?

We have seen that democratic devolution arrived in Wales in 1999 when the first National Assembly for Wales elections took place. As Welsh devolution moves into its third decade, it features a Welsh parliament and Welsh Government with tax-raising and primary law-making powers. Those powers became clearer to many people during the Covid-19 pandemic when Welsh Government sometimes used them to take different decisions to the ones being made by the UK Government for England, but our discussion has shown that they have existed for some time, in more subtle ways. The acquisition and exercise of these powers have inevitably impacted on criminal justice and the services upon which that system depends.

'Dragonisation' has probably been most obvious in the field of youth justice because three of the five core services on which it depends (social services, education, and health) are under the control of Welsh Government. The development of a 'Children First, Offenders Second' philosophy, although not always clearly defined, was first influential in Wales before being adopted in England by the Youth Justice Board in London. However, as Muncie (2010) pointed out at the time, exaggerated claims were made by some people in Wales in the first wave of 'dragonisation'.

In an article entitled 'Illusions of Difference: Comparative Youth Justice in the United Kingdom', Muncie delivered a sobering judgement on the reality of youth justice in Wales, highlighting an implementation gap between the stated aims of the rights-based approach and practice on the ground. To illustrate his point, he compared two areas with similar demographic and socio-economic profiles: Merthyr Tydfil (an industrial town in south Wales) and Newcastle (in the north-east of England). He commented: 'Notable differences remained in the proportion of convicted under 18-year-olds sentenced to custody in different YOT areas, ranging from 20 per cent in Merthyr Tydfil (in a "rights-driven" Wales?) to 2 per cent in Newcastle (in a "risk-driven" England?)' (Muncie: 2010: 52). On one level, Muncie can be criticised for rushing to judgment so soon after the initial devolution settlement in Wales. As we have already mentioned, devolution is a process and not a single event, and within Wales, the kind of practice being developed in Swansea (including the rights-based Bureau model embedded in the *Extending Entitlement* policy) had at that stage not been evaluated fully nor emulated by other youth offending services in Wales. However, what Muncie's article does is highlight the fact that there existed then—and continues to exist today—a wide diversity of practice at the sub-national level in all the countries of the UK.

At the time of writing there are two important criminal justice initiatives being developed jointly by the Ministry of Justice (UK Government) and Welsh Government: the *Youth Justice Blueprint for Wales* and the *Female Offending Blueprint for Wales*. Given that justice has not been fully devolved to Wales as is the case in Scotland and Northern Ireland, it is important to read these documents as a negotiation between two governments. The fine detail has yet to be worked out, but a few interesting messages emerge.

In the case of the *Youth Justice Blueprint* there are some familiar Welsh Government themes: diversion and children's rights are two examples. However, we can also detect the influence of the Ministry of Justice with the commitment to 'targeted prevention'. The Blueprint commits to addressing the psychological needs of children through delivering 'trauma-informed' services (Skuse & Matthew, 2015; Evans et al., 2020; Glendinning, 2021) while also ensuring that they can access their rights and entitlements. It remains to be seen whether both dimensions of the Blueprint receive equal attention in practice. The outcome of the review of *Extending Entitlement* will be an important factor, but so too will the Welsh Government's future settlements with the UK Government Treasury. The *Female Offending Blueprint for Wales*, meanwhile,

builds on the principles established by the Corston Report (2007) (see Chapter 11). It acknowledges the acute vulnerability and complex needs of this population and appears to be committed to exploring ways in which women can be diverted from custodial sentences to community-based provision. Like the Youth Justice Blueprint, we await the detail that will emerge from this ongoing piece of work.

Both Blueprints highlight the fact that criminal justice is not devolved. Will the recommendations of the Commission on Justice in Wales Report (2019) be followed? Will criminal justice be devolved to Wales? The Welsh Government welcomed the recommendations, but at the time of writing the UK Government's Ministry of Justice appear to be rejecting them without much consideration. The current debate on criminal justice, however, is currently overshadowed by a much bigger constitutional debate about the integrity of the United Kingdom. In the wake of Brexit, the rise in support for Scottish independence, and political complexities being played out on the island of Ireland, the implications of whether justice should be devolved to Wales assume even greater resonance.

SUMMARY

After reading this chapter and working your way through its features you should now be able to:

- identify the origins of the 'single' England and Wales criminal justice system

The England and Wales system was established in the 16th century through the passing of two separate 'Acts of Union'. These statutes were implemented with two underlying aims: to unite Wales and England politically; and to sweep away native Welsh laws and practices that had once flourished under Wales' own distinct legal system and penal code. While the Acts of Union did provide Wales with some measure of political identity, further changes in 1830 brought Wales into complete legal and judicial conformity with England. It was from this point onwards that the 'unitary' system of England and Wales was created.

- appreciate the impact that democratic devolution has made to criminal justice in Wales

Although the responsibility for criminal justice in Wales formally rests with the Westminster Parliament and Government, subtle changes brought on by democratic devolution have transformed Wales' role in the England and Wales criminal justice system. The Welsh Government's extensive responsibilities over many areas of social policy have given rise to the emergence of Welsh-only strategies within areas that deal directly with the needs of those in contact with the criminal justice system. This includes policies aimed at addressing the housing needs of Welsh prison leavers, tackling drug and alcohol misuse, preventing domestic violence, and supporting children and young people in conflict with the law. Despite having no formal responsibility over the police, prisons, the courts or the probation service, devolution has given the Welsh Government an important role in preventing crime and promoting community safety.

- critically evaluate the extent to which policy differences now exist between Wales and England, despite the continuation of the England and Wales jurisdiction

When it comes to thinking about Welsh criminology and criminal justice, Wales is now most often spoken of *because* of its separateness from England. The differences between Wales and England have emerged as a consequence of the Welsh Government's increasingly active role in producing policies to support offenders and reduce crime in Wales. Some recent examples of the divergence between Wales and England include: Welsh Government plans to extend voting rights to some Welsh prisoners; legislation that has removed the defence of 'reasonable punishment' for common assault on children (often described in the media as a 'smacking ban'); as well as the removal of the sanction of imprisonment for those who fail to pay their council tax in Wales.

- identify the principles that helped to shape the Welsh Government's social policy agenda during its early years

The phrase 'clear red water' was adopted by the Welsh Government to signal its intent to deliver a more traditional democratic socialist approach to policy development in Wales than in England. At the very heart of its approach was a commitment to five principles: the ideals of

good government; universal rather than narrowly targeted provision of services; an emphasis on citizenship rather than consumerism; equality of opportunity and outcome; and pluralism and diversity. One of the areas in which this agenda has been most clearly on display is the devolved government's response to children's rights and youth policy.

- evaluate some of the major developments within youth justice practice in Wales, including those that have given rise to the concept of 'dragonisation'

The Welsh Government responsibilities for many of the areas of policy that impact directly on children, including education, social services, health, and housing, has led to the emergence of a distinct approach to youth justice services in Wales. In particular, the Welsh Government's commitment to *Extending Entitlement* and to a *Children First, Offenders Second* approach have helped to fuel the notion that a 'dragonised' approach to youth justice policy exists in Wales. One clear example of this includes the work being carried out by the Swansea Bureau Model and its focus on diversionary practice, children's rights and the need to embrace alternatives to punishment (see Chapter 9 for further discussion).

REVIEW QUESTIONS

1. Why is the period of King Henry VIII's rule relevant to our understanding of contemporary criminal justice in Wales?
2. How has Welsh devolution altered its position within the 'single' England and Wales system?
3. List five of the universal entitlements that children and young people have in Wales according to the Welsh Government's *Extending Entitlement* strategy.
4. What are the major arguments behind the concept of dragonisation?
5. What were some of the main recommendations set out with the Commission on Justice in Wales report?

FURTHER READING

Commission on Justice in Wales (2019) *Justice in Wales for the People of Wales*. October 2019.
This report provides the first review of the justice system in Wales in over 200 years. It considers all areas and aspects of the Welsh justice system, including the impact that devolution has made to criminal justice in Wales since 1999.

Evans, J., Jones, R. and Musgrove, N. (2021) 'Dragonisation' revisited: A progressive criminal justice policy in Wales? *Criminology and Criminal* Justice, 0(0): 1–18.
This journal article assesses the extent to which Welsh policy has continued to diverge from England since the formative years of devolution. It considers the extent to which claims of a 'dragonised' criminal justice policy are still relevant in Wales, while helping to explore the fact that differences exist *within* the same jurisdiction.

Haines, K. and Case, S. (2015) *Positive Youth Justice: Children First, Offenders Second*. Bristol: Policy Press.
This book sets out in detail the key principles of the *Children First, Offenders Second* approach as developed in the Welsh context.

Pritchard, H. (2016) *Justice in Wales: Principles, Progress and Next Steps*. Cardiff: Wales Governance Centre.
This report maps out the key institutions responsible for the administration of criminal and youth justice in Wales. It provides any reader interested in justice in Wales with an in-depth understanding of the complex constitutional arrangements surrounding criminal and youth justice developments in the country.

Smith, P. (2019) *The Childhood Policy Landscape in Wales*, London: British Academy
This short report not only maps social policy in respect of children, but also young adults. It also provides a clear account of some key Welsh statutes.

Williams, C. (2011) *Social Policy for Social Welfare Practice in a Devolved Wales*. Birmingham: Venture Press.
This book offers a critical analysis and understanding of social welfare policy and practice in Wales. It considers the intersection between social and criminal justice policy in Wales and, as such, is an essential text for readers interested in understanding the role played by the devolved government within justice in Wales.

REFERENCES

All Wales Convention (2009) *All Wales Convention Report*. Cardiff: All Wales Convention.

Anderson, B. (2006) *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso.

Bateman, T. (2020) *The State of Youth Justice 2015: An Overview of Trends and Developments*. London: National Association of Youth Justice.

Butler, I. (2011) Children's Policy in Wales. In Williams, C. (ed.) *Social Policy for Social Welfare Practice in a Devolved Wales*. Birmingham: Venture Press.

Case, S. and Haines, K. (2015) *Children First, Offenders Second:* Positive Promotion: Reframing the Prevention Debate. *Youth Justice* 15(3): 226–39.

Chaney, P. and Drakeford, M. (2004) The Primacy of Ideology: Social Policy and the First Term of the National Assembly for Wales. *Social Policy Review* 16: 121–42l.

City and County of Swansea Cabinet (2013) Cabinet Meeting Minutes, January 31st, 2013. Swansea: City and County of Swansea.

Commission on Justice in Wales (2019) *Justice in Wales for the People of Wales*. October 2019.

Cross, N., Evans, J., and Minkes, J. (2003) Still Children First?—Developments in Youth Justice in Wales. *Youth Justice* 2(3): 151–62.

Davies, N. and Williams, D. (2009) *Clear Red Water: Welsh Devolution and Socialist Politics*. London: Francis Boutle Publisher.

Drakeford, M. (2007) Devolution and Social Justice in the Welsh Context. *Benefits* 19(2): 173–80.

Drakeford, M. (2010) Devolution and Youth Justice. *Criminology and Criminal Justice: An International Journal* 10(2): 137–54.

Drakeford, M. and Williamson, H. (1998) From Benign Neglect to Malign Indifference: Housing and Young People. In Shaw, I., Thomas, S., and Clapham, D. (eds) *Social Care and Housing*, Research Highlights 32. London: Jessica Kingsley.

Edwards, A. and Hughes, G. (2009) The Preventive Turn and the Promotion of Safer Communities in England and Wales: Political Inventiveness and Governmental Instabilities. In Crawford, A. (ed.) *Crime Prevention in Europe: Comparative Perspectives*. Cullompton: Willan.

Edwards, HT (2016) *The Eisteddfod*. Caerdydd: Gwasg Prifysgol Cymru

Evans, J. (2014) Responding to Youth Crime: Reconnecting the Disconnected. *Perspectives on Youth* 2: 85–102.

Evans, J. (2018) 'Objects of Concern' or 'Risky Young Offenders'? Assessment and Intervention with Children in the Public Care and Youth Justice Systems of England and Wales. In Ulmer, J. and Bradley, M. (eds) *Punishment Decisions: Locations of Disparity*, Vol. 2 in the ASC Division on Corrections and Sentencing Handbook Series, New York: Taylor & Francis.

Evans, J., Jones, R. and Musgrove, N. (2021) 'Dragonisation' revisited: A progressive criminal justice policy in Wales? *Criminology and Criminal Justice,* 0(0): 1–18.

Evans, J., Kennedy, D., Skuse, T. and Matthew, J. (2020) Trauma-informed practice and desistance theories: competing or complementary approaches to working with children in conflict with the law? *Salus Journal*, 8(2): pp. 55–76

Fergusson, R. (2007) Making Sense of the Melting Pot: Multiple Discourses in Youth Justice Policy. *Youth Justice: An International Journal* 7(3): 179–94.

Glendinning, F., Rodriguez, G.R., Newberry, A. and Wilmot, R. (2021) *Adverse Childhood Experience (ACE) and Trauma-Informed Approaches to Youth Justice Service in Wales: An evaluation of the implementation of the Enhanced Case Management (ECM) project—the views of children and youth justice workers*, Bangor: Bangor University

Haines, K. (2010) The Dragonization of Youth Justice. In Taylor, W., Earle, R., and Hester, R. (eds) *Youth Justice Handbook: Theory, Policy and Practice*. Cullompton: Willan.

Haines, K. and Case, S. (2015) *Positive Youth Justice: Children First, Offenders Second*. Bristol: Policy Press.

Haines, K., Case, S., Davies, K., and Charles, A. (2013) The Swansea Bureau: A Model of Diversion from the Youth Justice System. *International Journal of Law, Crime and Justice* 41: 167–87.

Haines, K., Case, S., Isles, E., Rees, I., and Hancock, A. (2004) *Extending Entitlement: Making it Real*. Cardiff: Welsh Assembly Government.

Hanson, D. (2019) *Reforming Outcomes: A review of Offender Education in Wales*. March 2019. Cardiff: Welsh Government. https://gov.wales/sites/default/files/publications/2019–03/reforming-outcomes-a-review-of-offender-education-in-wales_0.pdf

HM Cabinet Office (2005) *Youth Matters.* Presented to Parliament by the Secretary of State for Education and Skills, July 2005. London: HM Cabinet Office.

HM Chief Inspector of Prisons (2010) *Report on a full unannounced Inspection of HMP Altcourse*. 15–22 January 2010.

HM Chief Inspector of Prisons (2019) *Report on an unannounced inspection of HMP Cardiff*. 15–26 July 2019. London: HM Inspectorate of Prisons. https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2019/11/Cardiff-Web-2019.pdf

Hobbes, T (1660/2008) *Leviathan*. Oxford: Oxford University Press.

House of Commons Justice Committee (2014) *Crime reduction policies: a co-ordinated approach? Interim report on the Government's Transforming Rehabilitation programme*. Twelfth Report of Session 2013–14. January 2014. London: Stationary Office. https://publications.parliament.uk/pa/cm201314/cmselect/cmjust/1004/1004.pdf

Hupe, P, Hill, M. and Buffat, A. (eds.) (2015) *Understanding Street-Level Bureaucracy*. Bristol: Policy Press

Jones, R. (2017) The Hybrid System: Imprisonment and Devolution in Wales. PhD thesis. Cardiff: Wales Governance Centre at Cardiff University.

Jones, R. (2019) Sentencing and Immediate Custody in Wales: A Factfile. January 2019. Cardiff: Wales Governance Centre at Cardiff University.

Lipsky, M (1980) *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services.* New York: Russell Sage Foundation.

Mackie, P. (2017) Written evidence to the National Assembly for Wales' Equality, Local Government and Communities Committee's inquiry into Rough Sleeping in Wales. http://senedd.assembly.wales/documents/s71916/RS11%20-%20Peter%20Mackie.pdf

Madoc-Jones, I. and Buchanan, J. (2004) Indigenous People, Language and Criminal Justice: The Experience of First Language Welsh Speakers in Wales. *Criminal Justice Studies: A Critical Journal of Crime, Law and Society* 17(4): 353–67.

Maguire, M., Holloway, K., Liddle, M., Gordon, F., Gray, P., Smith, A. and Wright, S. (2010) *Evaluation of the Transitional Support Scheme (TSS)*. Final report to Welsh Assembly Government, 2010.

McAra, L. (2018) Child-friendly youth justice? In Bateman, T., Goodfellow, P., Little, R. and Wigzell, A. (eds.) *Child-friendly youth justice? A compendium of papers given at a conference at the University of Cambridge in September 2017*, pp. 5–14. London, NAYJ.

McAra, L. and McVie, S. (2010) Youth Crime and Justice: Key Messages from the Edinburgh Study of Youth Transitions and Crime. *Criminology and Criminal Justice—An International Journal* 6(1): 39–42.

McNeil, F. (2013) Transforming Rehabilitation: Evidence Values and Ideology. *British Journal of Community Justice*, 11, (2–3) 83–5.

Ministry of Justice (2014) Written evidence submitted by the Ministry of Justice. Written evidence submitted to the House of Commons Welsh Affairs Committee's Inquiry on Prisons in Wales and the Treatment of Welsh Offenders. July 2014.

Ministry of Justice (2017a) Report of the Justice in Wales Working Group. September 2017. London: Ministry of Justice. http://sites.cardiff.ac.uk/wgc/files/2017/09/Justice-in-Wales-Working-Group-Report-Final-2.pdf

Ministry of Justice (2020) Serious violent and sexual offenders to spend longer in prison. 22nd January 2020. https://www.gov.uk/government/news/serious-violent-and-sexual-offenders-to-spend-longer-in-prison

Morgan, R. (2002) National Centre for Public Policy Annual Lecture. Swansea, University of Wales, 11 December.

Motz, R., Barnes, J., Caspi, A., Arseneault, L., Cullen, F., Houts, R., Wertz, J. and Moffitt, T. (2020) Does contact with the justice system deter or promote future delinquency? Results from a longitudinal study of British adolescent twins. *Criminology*, 58: 307–35.

Nairn, T. (1981/2015) *The Break-Up of Britain*, London: Verso.

National Assembly for Wales (2000) *Extending Entitlement: Supporting Young People in Wales, a Report by the Policy Unit*. Cardiff: National Assembly for Wales.

National Assembly for Wales (2002) All Wales youth offending strategy group meets for the first time. Press Release. Available at http://www.wales.gov.uk.

National Assembly for Wales (2009a) *Transcript Youth Justice Board for England and Wales*, 7 May. Cardiff: National Assembly for Wales.

National Assembly for Wales (2009b) *Transcript Welsh Government*, 6 July. Cardiff: National Assembly for Wales.

National Offender Management Service Cymru, Welsh Government, and Youth Justice Board (2006) *Joining Together in Wales: An Adult and Young People's Strategy to Reduce Reoffending*, January 2006.

Office for National Statistics (2011) *Census: Quick Statistics for Wales*. Available at: https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/2011censusquickstatisticsforwales/2013-01-30

Office for National Statistics (2021) *Annual Population Survey, 2019–2020*. Available at: https://gov.wales/welsh-language-data-annual-population-survey-october-2019-september-2020
Prison Reform Trust (2016) *In Care, Out of Trouble.* An Independent review chaired by Lord Laming. London: Prison Reform Trust.
Rawlings, R. (2003) *Wales: Constitutional, Legal and Administrative Aspects of National Devolution*. Cardiff: University of Wales Press.
Rawls, J. (1971) *A Theory of Justice.* London: Harvard University Press.
Richard Commission (2004) *Report of the Richard Commission*, Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, Spring 2004.
Rousseau, J-J (1895/1998) *The Social Contract.* Ware: Classics of World Literature.
Shelter Cymru (2017) *Written evidence to the National Assembly for Wales' Equality, Local Government and Communities Committee's inquiry into Rough Sleeping in Wales*. http://senedd.assembly.wales/documents/s71911/RS06%20-%20Shelter%20Cymru.pdf
Shur, E. (1973) *Radical Non-Intervention—Rethinking the Delinquency Problem*. Englewood Cliffs, NJ: Prentice-Hall.
Silk Commission (2014) *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*. Second Report of Commission on Devolution in Wales, March.
Skuse, T. and Matthew, J. (2015) The Trauma Recovery Model: Sequencing Youth Justice Interventions for Young People with Complex Needs. *Prison Service Journal* 220: 16–25.
Smith, S. (2019) *The Childhood Policy Landscape in Wales: A Case Study*. London: British Academy.
Thomas, N. (1991) *The Welsh Extremist*. Talybont: Y Lolfa.
Wales Office (1997) *A Voice for Wales: A summary of the Governments proposals for a Welsh Assembly*. London: The Stationery Office.
Wales Office (2013) *UK Government's Evidence to the Commission on Devolution in Wales: Part II: The Welsh Devolution Settlement*. March.
Watkin, T. (2012) *The Legal History of Wales* (2nd edn). Cardiff: University of Wales Press.
Welsh Assembly Government (2003) *Making the Connections*. Cardiff: Welsh Assembly Government.
Welsh Assembly Government (2004a) *Children and Young People: Rights to Action*. Cardiff: Welsh Assembly Government.
Welsh Assembly Government (2004b) *All-Wales Youth Offending Strategy*. Cardiff: Welsh Assembly Government.
Welsh Assembly Government (2008) *Working Together to Reduce Harm, The Substance Misuse Strategy for Wales 2008–2018*.
Welsh Assembly Government (2009) *The Welsh Ministers (Transfer of Functions) Order 2009*. Written Statement by the Welsh Assembly Government. 3rd April 2009.
Welsh Government (2011) *A Pathway to Care for Older Prisoners: A Guide to Improving the Health, Well-Being & Healthcare of Older Prisoners*. October.
Welsh Government (2012) *Together for Mental Health: The New Mental Health Strategy for Wales*. May.
Welsh Government (2013) *Evidence Submitted by the Welsh Government to the Commission on Devolution in Wales*. Evidence Paper, 18 February.
Welsh Government (2014) *Tackling Hate Crimes and Incidents: A Framework for Action*. Cardiff: Welsh Government.
Welsh Government (2015) *National Pathway for Homelessness Services to Children, Young People and Adults in the Secure Estate*. Cardiff: Welsh Government. December.
Welsh Government (2015a) *Child Poverty Strategy for Wales*, Cardiff: Welsh Government.
Welsh Government (2015b) *Programme for Children and Young People*, Cardiff: Welsh Government.
Welsh Government (2016) *The National Training Framework on Violence Against Women, Domestic Abuse and Sexual Violence*. Cardiff: Welsh Government.
Welsh Government (2017) *Cymraeg 2050: A million Welsh speakers*. Cardiff: Welsh Government.
Welsh Government (2019) Substance Misuse Delivery Plan 2019–2022. Cardiff: Welsh Government.
Welsh Government and Youth Justice Board (2014) *Children and Young People First: Welsh Government/Youth Justice Board joint strategy to improve services for young people from Wales at risk of becoming involved in, or in, the youth justice system*. Cardiff: Welsh Government and Youth Justice Board.
Welsh Parliament's' Equality, Local Government and Communities Committee (2018) *Life on the streets: Preventing and tackling rough sleeping in Wales*. Cardiff: Welsh Parliament. http://www.assembly.wales/laid%20documents/cr-ld11517/cr-ld11517-e.pdf
Wilkinson, R. and Pickett, K. (2009) *The Spirit Level: Why Equality is Better for Everyone*. London: Penguin.
Wilkinson, R. and Pickett, K. (2018) *The Inner Level: How More Equal Societies Reduce Stress, Restore Sanity and Improve Everyone's Well-being*. London: Penguin.
Williams, G. A. (1985) *When Was Wales? A History of the Welsh*. London: Penguin Books.
Wyn Jones, R. and Scully, R. (2012) *Wales Says Yes: Devolution and the Welsh Referendum.* Cardiff: University of Wales Press.